

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Guenter Ries
Application Number: 10/591,086
Filing Date: 08/29/2006
Group Art Unit: 2832
Examiner: Ramon M. Barrera
Title: LINEAR DRIVE DEVICE WITH A MAGNET YOKE BODY
AND A PERMANENT MAGNETIC ARMATURE

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. § 1.181 TO REINSTATE APPEAL AND
TO APPLY PREVIOUSLY PAID NOTICE OF APPEAL FEES
AND APPEAL BRIEF FEES

Dear Sir:

This Petition under 37 C.F.R. § 1.181 is submitted to request (1) reinstatement of the appeal and (2) application of previously paid notice of appeal fees and appeal brief fees for the above-referenced Application. This Petition is accompanied by a new Notice of Appeal and new Appeal Brief and is being filed within the 2-month reply deadline of October 31, 2009, for responding to the final Office Action of August 31, 2009.

Please charge Deposit Account No. 502786 for any deficiency or overpayment.

Remarks begin on page 2 of this paper.

REMARKS

1. Appellant herein petitions under 37 C.F.R. § 1.181 for reinstatement of the appeal for the above-referenced Application.

The Office Action mailed August 31, 2009, reopened prosecution after the filing of an Appeal Brief on May 4, 2009, but before the Examiner's Answer or a decision on the merits by the Board of Patent Appeals and Interferences.

Approval of the Supervisory Patent Examiner is required to reopen prosecution after an appeal. See MPEP §§ 1002.02(d) and 1208.02.

In reopening the prosecution, the Examiner issued a final Office Action mailed August 31, 2009, which was not signed by a Supervisory Patent Examiner. Therefore, the Office Action dated August 31, 2009, failed to comply with M.P.E.P. § 1207.04 and 1002.02(d) regarding reopening of prosecution after the filing of an Appeal Brief.

The Office Action dated August 31, 2009, withdrew the rejection of claim 17 and indicated that claim 17 is allowable in addition to allowed claims 22-31. The Office Action also withdrew the rejection of claim 19 under 35 U.S.C. § 102(b) by the JP2000-253640 reference, and maintained the rejection of claim 19 under 35 U.S.C. § 102(b) by the JP2000-224829 reference. The Office Action maintained the other prior art rejections and added further rationale in support of the prior art rejections.

This Petition is accompanied by a new Notice of Appeal to initiate a new appeal in compliance with 37 C.F.R. § 41.34, along with a new Appeal Brief responding to the final

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Office Action mailed August 31, 2009. The new Appeal Brief appeals the final rejections of claims 14-16 and 18-21 in the Office Action dated August 31, 2009.

2. Applicants respectfully request that the fees for filing the Notice of Appeal on March 3, 2009, and the fees for filing the Appeal Brief on May 4, 2009, be applied to the new Notice of Appeal and the new Appeal Brief, which accompany this Petition, in accordance with 37 C.F.R. § 41.34 and M.P.E.P. § 1207.04.

Respectfully submitted,

/James E. Howard/

James E. Howard
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October 29, 2009

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